

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Applications 17482
and 17483 of Ralph Moss and
Amelia Moss, Respectively, to
Appropriate from Sweeney Creek,
Applications 17487 and 17488, 17490,
17491, 17492, and 17493 of W. E. Rayn,
Anderson Brothers,
S. M. and G. J. Horigan, Jr.,
Charles and Emily McGimsey, and
Oscar Dannenberg, Respectively, to
Appropriate from Unnamed Drainage
Channels; and Application 17549
of Bertha G. West to Appropriate from
Dry Arroyo and McCune Creek; All in
Solano County

Decision D 1061

ADOPTED FEB 15 '62

DECISION

Applications 17482, 17483, 17487, 17488, 17490, 17491, 17492, 17493, and 17549 for permits to appropriate unappropriated water having been filed; protests having been received; a public hearing having been held in Fairfield, California, on April 25, 1961, by the State Water Rights Board before Board Members Kent Silverthorne, Chairman, and W. A. Alexander; the applicants

(except for Charles and Emily McGimsey and Bertha G. West) and protestant Solano Irrigation District having appeared; evidence having been received, and the Board, having considered same and now being fully advised in the premises, finds as follows:

1. Applications 17482 by Ralph Moss and 17483 by Amelia Moss are for permits to appropriate 3.0 cubic feet per second (cfs) each, by direct diversion from April 1 to November 1 of each year for irrigation purposes from Sweeney Creek in Solano County. The points of diversion are to be located within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 4, T6N, R1E, MDB&M.

2. Applications 17487 and 17488 by W. E. Rayn, 17490 by Anderson Brothers, 17491 by S. M. and G. J. Horigan, Jr., 17492 by Charles and Emily McGimsey, and 17493 by Oscar Dannenberg are for permits to appropriate 2.0 cfs each, by direct diversion from February 1 to December 1 of each year for irrigation purposes from unnamed drainage channels in Solano County. The respective points of diversion are to be located within NE $\frac{1}{4}$ of SE $\frac{1}{4}$ and NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 13, T6N, R1E; NE $\frac{1}{4}$ of SE $\frac{1}{4}$ and NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 18, T6N, R2E; NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 5, T6N, R2E, and SE $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 31, T7N, R2E; SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 12, T6N, R1E; SE $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 5, T6N, R2E; and NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 14, T6N, R1E, all MDB&M.

3. Application 17549 by Bertha G. West is for a permit to appropriate 3.0 cfs by direct diversion from April 1 to November 30 of each year for irrigation purposes. The points of diversion are to be located within the SE $\frac{1}{4}$ of NW $\frac{1}{4}$, SW $\frac{1}{4}$ of NE $\frac{1}{4}$, and SE $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 7, T7N, R1E, MDB&M.

4. Since the year 1953 when adjacent lands were leveled and placed under irrigation, drain water has been available in Sweeney Creek from April 1 to November 1 at the points of diversion designated in Applications 17482 and 17483. In the year 1960 there was water flowing almost continuously at these points from the middle of the month of April until sometime in the month of October at a rate of between 5,000 and 6,000 gallons per minute. There is very little, if any, natural flow in Sweeney Creek and the unnamed drainage channels during the diversion seasons set forth in the applications, the supply consisting principally of local irrigation drain water and operational spill and return flows from water imported by the Solano Irrigation District.

5. The unnamed drainage channels specified as the source under Applications 17487, 17488, 17490, 17491, and 17493 were constructed in about the year 1953. Since their construction, water has been available at the applicants' points of diversion during the season requested in the applications.

6. Protestant Solano Irrigation District receives water from the U. S. Bureau of Reclamation's Monticello Project on Putah Creek, contracting for the same through the Solano County Flood Control and Water Conservation District. It contends that the bulk of the flow in the sources named in the applications is operational spill and return flow from the irrigation of lands within the District. The District's position is that, while it may not be using these waters at the present time, it intends in the future either to use them within the District or sell them to users

outside the District's boundaries. It requests that some condition or limitation be placed in any permits to be issued pursuant to the applications to the effect that the water applied for, as it relates to spill and return water, is the property of the District and may be reclaimed or sold by it at any future time.

7. The Board does not have authority to determine the rights of protestant, and permits issued by the Board will have no effect upon such rights. No permit term is necessary to protect the claimed rights of the protestant.

8. There is unappropriated water available at times to supply the applicants, and subject to suitable conditions, such water may be diverted during those times and used in the manner proposed without causing substantial injury to any lawful user of water.

9. The intended use is beneficial.

10. No appearance having been made in support of Applications 17492 and 17549, they should be denied.

From the foregoing findings, the Board concludes that Applications 17482, 17483, 17487, 17488, 17490, 17491, and 17493 should be approved, and that permits should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

IT IS HEREBY ORDERED that Applications 17482, 17483, 17487, 17488, 17490, 17491, and 17493 be, and the same are, approved, and that permits be issued to the applicants subject to vested rights and the following limitations and conditions:

1. The amount of water to be appropriated under permits issued pursuant to Applications 17482 and 17483 shall be limited to the amount which can be beneficially used and shall not exceed 3.0 cubic feet per second each, by direct diversion to be diverted between about April 1 and about November 1 of each year. The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with vested rights.

2. The amount of water to be appropriated under permits issued pursuant to Applications 17487, 17488, 17490, 17491, and 17493 shall be limited to the amount which can be beneficially used and shall not exceed 2.0 cubic feet per second each, by direct diversion to be diverted between about February 1 and about December 1 of each year. The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with vested rights.

3. The maximum amounts herein stated may be reduced in the licenses if investigation warrants.

4. Actual construction work shall begin on or before September 1, 1962, and thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

5. Said construction work shall be completed on or before December 1, 1964.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1965.

7. Progress reports shall be filed promptly by the permittees on forms which will be provided annually by the State Water Rights Board until licenses are issued.

8. All rights and privileges under these permits, including methods of diversion, methods of use, and quantities of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

9. Permittees shall allow representatives of the State Water Rights Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of these permits.

IT IS FURTHER ORDERED that Applications 17492 and 17549 be, and the same are, denied.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the day of , 1962.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member